

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Case No. _____
	:	
v.	:	In Admiralty
	:	
THE GRIMALDI GROUP SpA;	:	
ATLANTIC CONTAINER LINE AB, aka	:	
ATLANTIC CONTAINER LINE AB, SWEDEN;	:	
ATLANTIC CONTAINER LINE SWEDEN AB;	:	
ATLANTIC CONTAINER LINE (USA) LLC;	:	
ATLANTIC CONTAINER LINE;	:	
V.SHIPS (LIVERPOOL) LIMITED; THE	:	
M/V ATLANTIC CONVEYOR (IMO: 8215534);	:	
AND CAPTAIN COLLEEN MORAN,	:	
	:	
Defendants.	:	
	:	

UNITED STATES OF AMERICA'S VERIFIED COMPLAINT

The United States of America (“United States”), for its Verified Complaint against The Grimaldi Group SpA, *in personam*, Atlantic Container Line AB, aka Atlantic Container Line AB, Sweden, *in personam*, Atlantic Container Line Sweden AB, *in personam*, Atlantic Container Line (USA) LLC, *in personam*, Atlantic Container Line, *in personam*, V.Ships (Liverpool) Limited, *in personam* (collectively referred to as the “Vessel Interest Defendants”), the M/V ATLANTIC CONVEYOR (IMO: 8215534) (“M/V ATLANTIC CONVEYOR”), *in rem*, and Captain Colleen Moran (“Captain Moran”), *in personam*, alleges as follows:

Nature of the Action

1. This is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.
2. The United States brings this action against the Vessel Interest Defendants, the M/V ATLANTIC CONVEYOR, and Captain Moran to recover the costs of repairing damage to a navigational structure owned by the United States.
3. The United States asserts claims in this case under the general maritime law, and under the Rivers and Harbors Act (RHA), 33 U.S.C. §§ 401-476.

Jurisdiction and Venue

4. The United States is authorized to file this suit by 28 U.S.C. § 1345.
5. This Court has jurisdiction over the subject matter and the parties in accordance with 28 U.S.C. §§ 1331, 1333, and 1345.
6. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because it is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

Facts

7. The Reedy Point North Jetty (North Jetty) is a navigation structure located at the confluence of the Chesapeake and Delaware Canal with the Delaware River near Reedy Point, Delaware.
8. At all relevant times, the United States owned and operated, through the United States Army Corps of Engineers, the North Jetty.

9. At all relevant times, the M/V ATLANTIC CONVEYOR was a container ship that was owned and/or operated by The Grimaldi Group SpA, and/or Atlantic Container Line AB, aka Atlantic Container Line AB, Sweden, and/or Atlantic Container Line Sweden AB, and/or Atlantic Container Line (USA) LLC, a Delaware corporation, and/or Atlantic Container Line, and/or V.Ships (Liverpool) (collectively referred to as the “Vessel Interest Defendants”), and/or contractors and/or subsidiaries of one or more of the Vessel Interest Defendants.

10. On February 14, 2017, the North Jetty was substantially damaged when it was struck by the M/V ATLANTIC CONVEYOR (the Accident).

11. Captain Moran was the pilot of the M/V ATLANTIC CONVEYOR at the time of the Accident.

Count I – Claim Against the Vessel Interest Defendants and the M/V ATLANTIC CONVEYOR for Negligence under the General Maritime Law

12. The United States incorporates by reference Paragraphs 1 through 11 of this Complaint.

13. The Accident and the resulting damage to the North Jetty were proximately caused by the negligence and other fault of the Vessel Interest Defendants and their employees, including, but not limited to, the crew of the M/V ATLANTIC CONVEYOR, and/or by the negligence and other fault of contractors and/or subsidiaries of one or more of the Vessel Interest Defendants, and/or by the unseaworthiness of the M/V ATLANTIC CONVEYOR, all of which were in the privity and knowledge of the Vessel Interest Defendants, and which negligence and other fault included, but was not limited to:

- A. The failure of the captain and the crew of the M/V ATLANTIC CONVEYOR to exercise reasonable care in the operation of the vessel;
- B. The failure of the captain and the crew of the M/V ATLANTIC CONVEYOR to properly navigate and control the vessel;
- C. The failure of the captain and the crew of the M/V ATLANTIC CONVEYOR to keep a proper lookout;
- D. The failure of the captain and the crew of the M/V ATLANTIC CONVEYOR to maintain a safe distance from the North Jetty;
- E. The failure of the captain and the crew of the M/V ATLANTIC CONVEYOR to safely navigate past the North Jetty;
- F. The failure of the captain and the crew of the M/V ATLANTIC CONVEYOR to take the necessary evasive maneuvers to avoid allision with the North Jetty;
- G. Operating the M/V ATLANTIC CONVEYOR in a negligent and/or unseaworthy manner;
- H. Operating the M/V ATLANTIC CONVEYOR without a properly trained and competent crew;
- I. Failing to ensure that the M/V ATLANTIC CONVEYOR was in all respects fit and seaworthy for its intended purpose and use;
- J. Failing to properly vet and investigate the fitness of the pilot; and
- K. Other acts of negligence and/or other fault, and/or unseaworthiness, to be established at the trial of this matter.

14. The Vessel Interest Defendants and M/V ATLANTIC CONVEYOR are jointly and severally liable to the United States for the full amount of the damages proximately caused by the Accident.

15. The Accident and the resulting damage to the North Jetty were also proximately caused by the negligence and other fault of Captain Moran.

16. The Vessel Interest Defendants and M/V ATLANTIC CONVEYOR are liable to the United States for the negligence and other fault of Captain Moran.

17. Based on currently available information, it is estimated that the costs of repairing the damage to the North Jetty proximately caused by the negligence and other fault of the Vessel Interest Defendants, and/or their employees, and/or their contractors, and/or their subsidiaries, and/or the M/V ATLANTIC CONVEYOR, and/or Captain Moran, are up to an amount of approximately \$3,101,000.

**Count II – Claim Against Captain Moran
for Negligence Under the General Maritime Law**

18. The United States incorporates by reference Paragraphs 1 through 17 of this Complaint.

19. The Accident and the resulting damage to the North Jetty were also proximately caused by the negligence and other fault of Captain Moran, which negligence and other fault included, but was not limited to:

A. The failure to exercise reasonable care in the operation of the M/V ATLANTIC CONVEYOR;

- B. The failure to exercise the highest standard of care to navigate the M/V ATLANTIC CONVEYOR safely and prudently;
- C. The failure to properly navigate and control the M/V ATLANTIC CONVEYOR;
- D. The failure to keep a proper lookout;
- E. The failure to maintain a safe distance from the North Jetty;
- F. The failure to safely navigate past the North Jetty;
- G. The failure to take the necessary evasive maneuvers to avoid allision with the North Jetty;
- H. Failing to ensure that the M/V ATLANTIC CONVEYOR was in all respects fit and seaworthy for its intended purpose and use;
- I. Other acts of negligence and/or other fault, and/or unseaworthiness, to be established at the trial of this matter.

20. Captain Moran is jointly and severally liable to the United States for the full amount damages proximately caused by the Accident.

21. Based on currently available information, it is estimated that the costs of repairing the damage to the North Jetty proximately caused by the negligence and other fault of Captain Moran are up to an amount of approximately \$3,101,000.

Count III – Claim Against the Vessel Interest Defendants and the M/V ATLANTIC CONVEYOR for Strict Liability under the Rivers and Harbors Act

22. The United States incorporates by reference Paragraphs 1 through 21 of this Complaint.

23. The North Jetty is a public work built and maintained for the preservation and improvement of the navigable waters of the United States within the meaning of the RHA, 33 U.S.C. § 408.

24. Under the RHA, 33 U.S.C. §§ 408 and 412, the Vessel Interest Defendants and the M/V ATLANTIC CONVEYOR are strictly liable, and jointly and severally liable, to the United States for the full costs to repair the damage to the North Jetty proximately caused by the Accident.

25. Based on currently available information, it is estimated that the costs of repairing the damage to the North Jetty proximately caused by the Accident are up to an amount of approximately \$3,101,000.

**Count IV – Strict Liability Claim Against
Captain Moran under the Rivers and Harbors Act**

26. The United States incorporates by reference Paragraphs 1 through 25 of this Complaint.

27. The North Jetty is a public work built and maintained for the preservation and improvement of the navigable waters of the United States within the meaning of the RHA, 33 U.S.C. § 408.

28. Under the RHA, 33 U.S.C. §§ 408 and 412, Captain Moran is strictly liable, and jointly and severally liable, to the United States for the full costs to repair the damage to the North Jetty proximately caused by the Accident.

29. Based on currently available information, it is estimated that the costs of repairing the damage to the North Jetty proximately caused by the Accident are up to an amount of approximately \$3,101,000.

WHEREFORE, the United States prays that a judgment be entered in its favor against The Grimaldi Group SpA, *in personam*, Atlantic Container Line AB, aka Atlantic Container Line AB, Sweden, *in personam*, Atlantic Container Line Sweden AB, *in personam*, Atlantic Container Line (USA) LLC, *in personam*, Atlantic Container Line, *in personam*, V.Ships (Liverpool) Limited, *in personam*, the M/V ATLANTIC CONVEYOR (IMO: 8215534) (“M/V ATLANTIC CONVEYOR”), *in rem*, and Captain Colleen Moran (“Captain Moran”), *in personam*, jointly and severally, for the total amount of the United States’ damages proximately caused by the Accident, plus interest and costs, and for such other relief as the Court deems proper.

Dated: February 6, 2020

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General, Civil Division

/s/ James C. Wilson
JAMES C. WILSON
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Attorneys for the United States

VERIFICATION

Based upon information officially furnished to me, I declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on February 6, 2020.

/s/ James C. Wilson
JAMES C. WILSON

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): _____

VI. CAUSE OF ACTION

Brief description of cause: _____

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): _____

JUDGE _____

DOCKET NUMBER _____

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____